

Interim Decision #2060

MATTER OF YEE

In Visa Petition Proceedings

A-19169736

*Decided by Board November 5, 1970*

Petitioner's alleged adoption of beneficiary in China in 1952 when latter was 4 years of age has not been established for immigration purposes since no adoption papers were presented nor adoption procedure or formalities followed, all previous Chinese laws and decrees regarding adoption were abolished when the Chinese Communist Government seized control in 1950, and further, Article 13 of the Communist Chinese Marriage Law pertaining to foster parents and foster children does not create a relationship equivalent to adoption.

ON BEHALF OF PETITIONER:  
Joseph P. Fallon, Esquire  
30 Hotaling Place  
San Francisco, California 94111

ON BEHALF OF SERVICE:  
Irving A. Appleman  
Appellate Trial Attorney

Petitioner, a native of China and a permanent resident of the United States, appeals the decision of the District Director denying this visa petition filed to accord the beneficiary classification as the unmarried adopted son of a permanent resident alien. The appeal will be dismissed.

In her visa petition, petitioner states that the beneficiary, also a native and citizen of China, who was born on December 20, 1948 in Kwangtung Province, China, was adopted by her in 1952 with the consent of her husband, who was then residing in the Philippines. The record reflects that when petitioner applied for an immigrant visa in 1967 she indicated on her visa application that she had a daughter and an adopted son, the beneficiary. Petitioner, in an interview, stated she adopted the beneficiary in China when he was four years of age; that the beneficiary's natural parents came from a neighboring village; that no adoption paper was executed and no milk money was paid.

The District Director noted, relying on an opinion from the Secretary for Home Affairs of the Colony of Hong Kong, that the Communist Chinese regime, in power at the time of the alleged